

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 202005005	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/09/2020 11:30 PM, Thursday, 01/14/2021 12:00 AM	Location of Incident: § 87(2)(b)	Precinct: 79	18 Mo. SOL 1/9/2022	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 07/13/2020 4:18 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 07/13/2020 4:18 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DTS Anthony Ward	02439	926281	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Nicola Whittick	05857	957285	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Anthony Ward	Discourtesy: Detective Anthony Ward acted discourteously toward § 87(2)(b)	§ 87(2)(b)
B.DTS Anthony Ward	Abuse: Detective Anthony Ward threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.DTS Anthony Ward	Abuse: Detective Anthony Ward threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
D.DTS Anthony Ward	Untruthful Stmt.: Detective Anthony Ward provided a misleading official statement to the CCRB.	§ 87(2)(b)
E.DTS Anthony Ward	Untruthful Stmt.: Detective Anthony Ward provided a false official statement to the CCRB.	§ 87(2)(b)

## Case Summary

On July 13, 2020, § 87(2)(b) filed this complaint with the CCRB via the web form.

On July 9, 2020, at approximately 11:30 p.m., a staff member at § 87(2)(b) § 87(2)(b) Brooklyn), the building in which § 87(2)(b) lives, called 911 to report that § 87(2)(b) and her friend § 87(2)(b) were harassing him. Detective Anthony Ward and Police Officer Nicola Whittick, both of the 79<sup>th</sup> Precinct, responded. Detective Ward spoke discourteously to § 87(2)(b) (**Allegation A: Discourtesy**; § 87(2)(g) allegedly threatened to arrest her, (**Allegation B: Abuse of Authority**; § 87(2)(g) and threatened to remove her to the hospital (**Allegation C: Abuse of Authority**; § 87(2)(g)

This incident did not result in any summonses or arrests.

During his CCRB interview, on January 14, 2021, Detective Ward made misleading official statements and false official statements about the incident. (**Allegations D and E: Untruthful Statement**; § 87(2)(g)

The CCRB obtained body-worn camera video capturing this incident from Detective Ward (Board Review 01) and PO Whittick (Board Review 02).

## Findings and Recommendations

### **Allegation (A) Discourtesy: Detective Anthony Ward acted discourteously toward § 87(2)(b)**

It is undisputed that on July 9, 2020, at approximately 11:30 p.m., a staff member at The Bridge § 87(2)(b) Brooklyn), the building in which § 87(2)(b) lives, called 911 to report that § 87(2)(b) and her friend § 87(2)(b) were harassing him. It is undisputed that Detective Ward and PO Whittick responded to the location, spoke with the staff member, § 87(2)(b) and § 87(2)(b) and began to leave the location. It is undisputed that as the officers were leaving § 87(2)(b) § 87(2)(b) kicked a door inside the lobby of § 87(2)(b) It is undisputed that Detective Ward reentered the building and confronted § 87(2)(b)

PO Whittick's BWC recording captures the interaction between Detective Ward and § 87(2)(b) after § 87(2)(b) kicks the door. At 5:10 in the recording, Detective Ward is facing § 87(2)(b) who is standing with her back approximately two feet from a glass wall. They are approximately four feet apart. Detective Ward says, "Why did you kick the door?" § 87(2)(b) takes a step back from Detective Ward and says, "You didn't hear what he said to me." Detective Ward takes a step toward § 87(2)(b) and yells, "Why did you kick the door?" § 87(2)(b) yells, "Don't fucking yell at me." Detective Ward steps towards § 87(2)(b) and screams apparently at the top of his voice, "Why did you kick the door?!" § 87(2)(b) recoils from Detective Ward, looks away from him, and says in a normal voice, "I'm not your child." Detective Ward takes another step toward § 87(2)(b) and screams again, "Why did you kick the door?!" His mask slips below his nose as he screams. He thrusts his face forward twice, coming within one foot of § 87(2)(b) face and causing her to recoil. At 5:18 § 87(2)(b) states, "So I'm supposed to be scared of you 'cause you're yelling at me?" Detective Ward takes a step away from § 87(2)(b) and states, "I can do that if I want, I told you that already." (Board Review 02)

Detective Ward watched this BWC recording during his interview. The CCRB asked Detective Ward if he had a law-enforcement reason for his actions and statements. He stated he wanted to

make § 87(2)(b) understand that she had done something wrong. (Board Review 03)

NYPD Patrol Guide Procedure 200-02 states that officers pledge to “respect the dignity of each individual and render [their] services with courtesy and civility.” (Board Review 04)

Detective Ward moved into § 87(2)(b) face, screamed at her, moved toward her again after she stepped back, and continued to scream at her. § 87(2)(b) statements in response to these actions, such as “I am not your child,” and “I’m supposed to be scared of you ‘cause you’re yelling at me,” indicate that she understood Detective Ward’s behavior to be attempts to assert dominance over her. Detective Ward could not provide a law-enforcement reason underpinning his behavior. § 87(2)(g)

§ 87(2)(g) this incident occurred during the COVID-19 pandemic. In repeatedly stepping towards § 87(2)(b) screaming in her face, and doing so to such an extent that his mask slipped on his face, Detective Ward unnecessarily put § 87(2)(b) in an especially sensitive situation.

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Detective Anthony Ward threatened to arrest § 87(2)(b)**

**Allegation (C) Abuse of Authority: Detective Anthony Ward threatened to remove § 87(2)(b) to the hospital.**

§ 87(2)(b) stated to the CCRB that during the incident Detective Ward verbally threatened to arrest her. (Board Review 05) Detective Ward stated to the CCRB that during the incident he verbally threatened to arrest § 87(2)(b) (Board Review 03) The timing and manner of the threat are in dispute.

Detective Ward’s body-worn camera recording has clear audio from the beginning of the incident through § 87(2)(b) departure from the scene. Detective Ward never threatens to arrest § 87(2)(b). However, the footage shows that during the incident Detective Ward repeatedly threatened to remove § 87(2)(b) to the hospital. At 5:17 in the recording, Detective Ward holds his handcuffs in one hand and states twice, “You’re going to the hospital”. At 6:20 in the recording, DT Ward states to § 87(2)(b) “You gotta go to the hospital.” She asks, “for what?” DT Ward states, “it’s either you go upstairs or you go to the hospital.” He then grabs her wrist and attempts to handcuff § 87(2)(b). PO Whittick tells DT Ward to let § 87(2)(b) go upstairs. He does. (Board Review 01)

Detective Ward watched these interactions on his BWC footage during his CCRB interview. He stated of the 5:17 interaction that at the time he thought § 87(2)(b) could be emotionally disturbed.

Detective Ward stated of the 6:20 interaction that he did not consider § 87(2)(b) emotionally disturbed at that point. He stated he intended § 87(2)(b) to hear and understand the mention of the hospital as a threat. He stated that he and PO Whittick routinely use threats of removal to the hospital to gain compliance from civilians. (Board Review 03)

Patrol Guide Procedure 221-13 states an officer may involuntarily remove a civilian to a hospital when the officer, “reasonably believes that a person who is apparently mentally ill or emotionally

disturbed, must be taken into protective custody because the person is conducting himself in a manner likely to result in a serious injury to himself or others.” [Emphasis Patrol Guide] (Board Review 06)

Video evidence shows that neither § 87(2)(b) nor Detective Ward were accurately recalling the incident when they made their individual statements about a threat of arrest. No such threat occurred. § 87(2)(g)

Detective Ward stated that he did not believe § 87(2)(b) to be mentally ill or emotionally disturbed and that he threatened to remove her to the hospital to gain compliance, not because he believed that she needed to be removed to the hospital. § 87(2)(g)

**Allegation (D) Untruthful Statement: Detective Anthony Ward provided a misleading official statement to the CCRB.**

**Allegation (E) Untruthful Statement: Detective Anthony Ward provided a false official statement to the CCRB.**

On January 14, 2021, Detective Ward provided a statement to the CCRB.

In his CCRB statement, Detective Ward initially stated that when he arrived at § 87(2)(b) a staff member, “§ 87(2)(b) was “locked in a room” behind a glass door. He stated that § 87(2)(b) and § 87(2)(b) were “threatening physical harm” to § 87(2)(b) that they, “kept threatening to beat him up,” that they were kicking at the door in attempts to get through it to § 87(2)(b) and that they made physical attempts to push past Detective Ward to reach § 87(2)(b). Detective Ward stated that he had to put his hands up and physically push § 87(2)(b) away from the area where § 87(2)(b) was hiding. Detective Ward stated that § 87(2)(b) said multiple times in front of him and PO Whittick that she would “fuck § 87(2)(b) up.” Detective Ward stated that several minutes into the incident he and PO Whittick went to leave and that § 87(2)(b) kicked the door separating her from § 87(2)(b) when they had their backs turned. He stated that he and PO Whittick returned inside and observed § 87(2)(b) make multiple attempts to get to § 87(2)(b) stating she was “trying to rush the door.” Detective Ward stated that § 87(2)(b) had to physically restrain § 87(2)(b) (Board Review 03)

Detective Ward’s BWC video begins recording inside of his RMP on the way to § 87(2)(b) and records without interruption through when § 87(2)(b) and § 87(2)(b) depart the scene. It begins recording audio at 1:00. It shows that at the beginning of the incident the door between § 87(2)(b) and § 87(2)(b) was propped open with a small plastic trash can. § 87(2)(b) does not threaten § 87(2)(b) with physical harm. She does not threaten to “beat him up.” She does not state that she will “fuck § 87(2)(b) up.” She does not make physical attempts to get past Detective Ward in order to reach § 87(2)(b). Detective Ward does not physically push § 87(2)(b) away from the area in which § 87(2)(b) is hiding. § 87(2)(b) does not kick the door between her and § 87(2)(b) before Detective Ward and PO Whittick go to leave the scene. § 87(2)(b) does kick the door one to two times as the officers are leaving. However, § 87(2)(b) does not attempt to rush the door after the officers return, and she is not restrained from doing so by § 87(2)(b) (Board Review 01)

After viewing the first several minutes of his BWC video, Detective Ward initially stated that it did not refresh his recollection of the incident. Investigators asked about the initial attempts to get through the door Detective Ward had described. Detective Ward stated that they had occurred as he

was approaching the building. He stated that although his BWC did not capture the attempts to get into that area, he was able to see it with his eyes. Detective Ward acknowledged that the BWC shows the door was propped open and could not explain what hindered § 87(2)(b) and § 87(2)(b) in their attempts to enter the area he described. (Board Review 03)

Detective Ward's BWC video shows that when Detective Ward arrived at § 87(2)(b) he exited his RMP at the corner and walked parallel to the building until he reached the front doors. It shows the entrance to § 87(2)(b) is recessed into the building and views into the building from the sidewalk are obstructed by the un-recessed wall of the building. It shows that there is a vestibule with mailboxes between the outer doors and the doors leading into the lobby, and that on approach to the building from the sidewalk the vestibule is visible before the lobby area and the door leading off of the lobby are visible. The first moment at which Detective Ward could have had a line of sight to the door off of the lobby is captured in the BWC video at approximately 0:40. At that time, § 87(2)(b) is 10 to 15 feet away from the door in question. She is standing in the vestibule, stationary, looking at her phone, and her mouth is not moving. (Board Review 01)

Detective Ward watched the remaining minutes of his BWC video until the point at which he and PO Whittick initially began to leave the scene. He stated it did not refresh his recollection of the incident or give him cause to amend his statement. Investigators asked about the repeated verbal threats of violence Detective Ward had described. Detective Ward stated the threats had not occurred throughout the incident but had all occurred as he was approaching the building. He stated that they were not on the BWC video due to the audio delay. (Board Review 03)

**Patrol Guide Procedure 203-08** lists as prohibited conduct "intentionally making a false official statement" and "intentionally making a misleading official statement." It defines each as follows:

**FALSE STATEMENT** – An intentional statement that a member of service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made.

**MISLEADING STATEMENT** – A statement that is intended to misdirect the fact finder, and materially alter the narrative by:

- a. Intentionally omitting a material fact or facts,
- b. Making repeated claims of "*I do not remember*" or "*I do not know*" when a reasonable person under similar circumstances would recall, or have been aware of, such material facts, or
- c. Altering and/or changing a member's prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement.

A material fact is defined as, "a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail. (Board Review 07)

In DCT Case Number 2017-18331, a Lieutenant was determined to have made statements that were knowingly misleading at the time she made them, and that the statements made were material false statements, because they went beyond a mere denial of misconduct and instead offered an alternative factual scenario which, if believed, would absolve her of responsibility. (Board Review 08)

In DCT Case Number 2016-16097 the court held that in order to prove a false statement, it must be demonstrated that the statement was not only false, but also was not a mere denial of an administrative charge of misconduct. This is in contrast to statements that create a “false description of events.” (Board Review 09)

Detective Ward stated that § 87(2)(b) was consistently physically violent and made repeated threats of violence throughout the incident. Independent evidence, Detective Ward’s BWC recording of the incident, indicates that the events of the incident did not occur as Detective Ward initially described them. After being confronted with this evidence, Detective Ward altered and/or changed his prior statement. The statements Detective Ward altered and or/changed were material in that they were at the core of the inquiry into § 87(2)(b) mental state and Detective Ward’s threat to remove her to the hospital. § 87(2)(g)

§ 87(2)(g)

After viewing his BWC recording, Detective Ward repeated his previous assertion that § 87(2)(b) took the actions and made the statements he recounted in his initial testimony, adjusting his statement only insofar as to relocate the actions and statements to a time period at which the BWC video would be less reliable. Detective Ward’s BWC video contradicts his adjusted statement.

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party. (Board Review 10)
- Detective Ward has been a member of service for 20 years and has been a subject in five other CCRB complaints and ten allegations, none of which none was § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On March 5, 2021, a Notice of Claim check was requested of the Office of the Comptroller. Its response will be added to the case file upon receipt. (Board Review 12)

Squad No.: 9

Investigator: Christopher Olmsted      Investigator Chris Olmsted      04/29/2021  
Signature      Print Title & Name      Date

Squad Leader: Monique West      IM Monique West      5/11/2021  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_